

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**JUANITA MYERS**

**v.**

**WALMART INC.**

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**Civil Action No. 3:21-cv-2090**

**DEFENDANT’S NOTICE OF REMOVAL**

WALMART INC. (“Defendant”) files this Notice of Removal pursuant to 28 U.S.C. §§ 1441 and 1332.

**I. INTRODUCTION**

1. Pursuant to 28 U.S.C. § 1441, *et seq.*, this civil action is removed from the 95<sup>th</sup> District Court of Dallas County, Texas, where this matter was pending under Cause No. DC-21-09455 and styled *Juanita Myers v. Walmart Inc.* (the “State Court Action”). Defendant hereby files their Notice of Removal.

**II. NATURE OF THE SUIT**

2. This is a personal injury case where Plaintiff alleges that she slipped and fell on a wet substance at one of Defendant’s retail stores. Plaintiff, in her initial state court petition, asserts claims based on negligence under a premises liability theory. Plaintiff seeks monetary relief in an amount “of at least \$250,000 but less than \$1,000,000.” *Plaintiff’s Original Petition*, p. 1.

**III. TIMELINESS OF REMOVAL**

3. Plaintiff commenced this lawsuit by filing her Original Petition on July 21, 2021. Defendant was served with the Original Petition on or about August 3, 2021, through the registered agent for Defendant. Defendant hereby files their Notice of Removal. Defendant’s removal is

timely because it is filed within thirty days after the Defendant was served via a registered agent.  
28 U.S.C. § 1446.

#### **IV. BASIS FOR REMOVAL JURISDICTION**

4. Removal is proper under 28 U.S.C. §§ 1441 and 1332(a)(1) because there is complete diversity of citizenship between Plaintiff and Defendant and the amount in controversy exceeds \$75,000.

5. Plaintiff is a citizen of Texas as evidenced by her admission that she resides in the State of Texas. *See Plaintiff's Original Petition*, p. 1.

6. Plaintiff sued Walmart Inc. Defendant Walmart Inc. is now and was at the time of filing an incorporated entity under the laws of the State of Delaware and has its principal place of business in Arkansas. Therefore, Walmart Inc. is a citizen of Delaware and Arkansas. *MidCap Media Fin., L.L.C. v. Pathway Data, Inc.*, 929 F.3d 310, 314 (5th Cir. 2019).

7. Accordingly, for diversity purposes, Defendant Walmart Inc. is a citizen of Delaware and Arkansas.

8. Thus, this lawsuit is between citizens of different states, and there is complete diversity of citizenship between Plaintiff and Walmart Inc. pursuant to 28 U.S.C. § 1332.

9. Plaintiff seeks monetary relief in an amount “of at least \$250,000 but less than \$1,000,000.” *Plaintiff's Original Petition*, p. 1. Based on all information currently known by or available to Defendant, Plaintiff's pleadings admit that the amount in controversy exceeds the jurisdictional minimum for removal to this Court.

#### **V. THIS NOTICE IS PROCEDURALLY CORRECT**

10. Based on the aforementioned facts, the State Court Action may be removed to this Court by Defendant Walmart Inc. in accordance with the provisions of 28 U.S.C. § 1441(a) because: (i) this action is a civil action pending within the jurisdiction of the United States District

Court for the Northern District of Texas; (ii) this action is between citizens of different states; and (iii) the amount in controversy exceeds \$75,000, exclusive of interest and costs as specifically plead in the Petition.

11. Defendant has attached to this Notice of Removal the documents required by 28 U.S.C. § 1446(a) and Local Rule 81.1(a)(4) as follows:

- A. Index of all documents that clearly identifies each document and indicates the date the documents was filed in state court;
- B. A copy of the docket sheet in the State Court Action; and
- C. Each document filed in the State Court Action.

12. Defendant is also filing with the Notice of Removal a completed Civil Cover Sheet, Supplemental Civil Cover Sheet, and Certificate of Interested Persons.

13. Defendant retains the right to supplement the jurisdictional allegations by affidavit, declaration, or otherwise should Plaintiff challenge the allegations in a motion to remand or other filing.

14. In accordance with 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal will be given to all parties and to the Clerk of the 95th Judicial District Court of Dallas County, Texas, where this matter is pending under Cause No. DC-21-09455.

#### **VI. JURY TRIAL**

15. A jury trial has been demanded in the State Court Action by Defendant. Trial has not commenced in the 95<sup>th</sup> Judicial District Court of Dallas County, Texas.

#### **VII. CONCLUSION**

16. Since diversity jurisdiction exists over Plaintiff's claim as set forth herein, Defendant desires and is entitled to remove the lawsuit filed in the 95th District Court of Dallas

County, Texas to the United States District Court for the Northern District of Texas, Dallas Division.

**WHEREFORE, PREMISES CONSIDERED,** Defendant Walmart Inc. pursuant to and in conformance with the statutory requirements, remove this action from the 95th District Court of Dallas County, Texas, to this Court.

Respectfully submitted,

*/s/ David A. Johnson*

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**ATTORNEYS FOR DEFENDANT**

**CERTIFICATE OF SERVICE**

This is to certify that on the 1st day of September, 2021, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

/s/ David A. Johnson

**DAVID A. JOHNSON**